

December 30, 2021

EPA Region Six

Dear Deputy Administrator Gray:

I am writing as a member of Save RGV in order to get clarification on the primacy jurisdiction and oversight of the collection, transport, and deep underground injection of carbon dioxide in Texas. This is particularly urgent in light of the recent request for a "Limited Amendment" to the Rio Grande LNG project (FERC Docket No. CP22-17-000) that would include carbon capture and sequestration in South Texas. The information provided in the Application of RGLNG for Limited Amendment filed on November 17, 2021 and the prepared Resource Reports (Document Accession #: 20211117-5060) indicate an attempt to work around the very stringent EPA guidelines for CCS.

1. Clarification is needed with these two statements:

Section 1.5.1 of Resource Report 1, page 12 states:

*The non-jurisdictional CO<sub>2</sub> Class VI injection well(s) will be permitted, constructed and operated in accordance with the EPA's UIC Class VI injection well program.*

The Application of RGLNG for Limited Amendment filed on November 17, 2021, Section VI. Permits, Approvals, and Consultations, on p.14 states:

*As noted above, EPA is responsible for the permitting of Class VI injection wells for CO<sub>2</sub> sequestration. For several months, RGLNG has engaged with EPA and the TXRRC, to which EPA is expected to eventually delegate primacy, to discuss the CCS Systems.*

Which agencies are really going to be regulating and monitoring this project through its experimental stages?

(This would be a major change in the jurisdiction of CCS in the United States since at this time Wyoming and North Dakota are the only states with this kind of Class VI primacy.)

2. Another area of concern involves the TX HB1284, especially in the context of this addition to the RGLNG project. With the passing of that legislation last summer, Texas has removed the TCEQ from any jurisdiction or oversight of geological carbon sequestration. This leaves the Railroad Commission (RRC) as the sole permitting agency in Texas. That, along with the report that assumes EPA will be relinquishing its jurisdiction leaves some question as to the protection of the people in the Lower Rio Grande Valley.

3. Also in the TX House bill, there is reference, taken from the TX Tax Code, that states

- (d) The Railroad Commission of Texas [An agency to which an operator applies for a certification under Subsection (c)(2)] may issue a [the] certification under Subsection (c)(2) only if the commission [agency] finds that, based on substantial evidence,

there is a reasonable expectation that:

- (1) at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and
- (2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

Having checked the EPA documents related to Class VI injection, there is no mention of this time period. The claim that 99% of CO<sub>2</sub> will be contained for 1000 years is unrealistic, to say the least. What role does the EPA have in allowing misleading claims of safety?

4. At the same time that the RRC is planning to take over CCS authority from the EPA, the request for GS in the LRGV has provided almost no documentation to support confidence that there will be adequate oversight.

For example, in reference to the permits listed:

Resource Report 2: Water Use and Quality, "Summary of Filing Information Table", all eight filing requirements were deemed "Not Applicable".

Resource Report 6: Geological Resources-all five filing requirements were deemed "Not Applicable"

Resource Report 7: Soils- all four filing requirements were deemed "Not Applicable"

Does the EPA, with its appropriately thorough UIC licensing process for Class VI injection, believe that the resource reports prepared by RGLNG, LLC for the addition of a CCS system provide adequate assurance that public health and safety and the environment will be protected, especially since the TCEQ has been deliberately removed from the process in HB 1284?

5. In Resource Report 5: Socioeconomics, there are multiple references, including the EJSCREEN modeling system, to the responsibility of EPA to identify and address potential impacts on environmental justice communities.

How can people in the LRGV, once the EPA is out of the picture and the RRC is in charge, know that they will be protected?

6. Finally, In Resource Report 1, page RR1-15, there is a claim that since the original LNG project offered outreach, "additional stakeholder outreach is not necessary."

This is in violation of EPA's substantial requirements for stakeholder outreach. Again, who will ensure that all stakeholders have voice and are aware of activities, when the RRC takes over control of CCS in the LRGV?

Thank you in advance for your response to these concerns. The people and the environment of the Lower Rio Grande Valley rely on the protection of the EPA and the addition of CCS is a significant change to the original RGLNG application.

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